

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2274

Introduced by Assembly Member Lara

February 24, 2012

~~An act relating to crime.~~ *An act to amend Section 391.7 of the Code of Civil Procedure, relating to civil procedure.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2274, as amended, Lara. ~~Crime: misdemeanor penalties.~~ *Vexatious litigants.*

Under existing law, a court may take specified actions with respect to a vexatious litigant, as defined. Existing law permits a court, on its own motion or the motion of any party, to enter a prefiling order that prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed.

This bill would instead permit, under those circumstances, the court to enter a prefiling order that prohibits a vexatious litigant from filing or maintaining any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed or has been filed.

Existing law also requires the presiding justice or presiding judge to permit the filing of that litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay, and may condition the filing upon the furnishing of security for the benefit of the defendants.

The bill would also require the presiding justice or presiding judge to permit the maintenance of that litigation only if it meets the criteria described above.

~~Existing law provides for the classification of crimes as felonies, misdemeanors, or infractions, and generally provides that a misdemeanor is punishable by imprisonment in a county jail not exceeding 6 months, by a fine not exceeding \$1,000, or both, unless otherwise prescribed by law.~~

~~This bill would express the Legislature's intent to enact legislation that would revise the penalties for certain misdemeanor offenses.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 391.7 of the Code of Civil Procedure is
2 amended to read:
3 391.7. (a) In addition to any other relief provided in this title,
4 the court may, on its own motion or the motion of any party, enter
5 a prefiling order ~~which~~ *that* prohibits a vexatious litigant from
6 filing ~~or maintaining~~ any new litigation in the courts of this state
7 in propria persona without first obtaining leave of the presiding
8 justice or presiding judge of the court where the litigation is
9 proposed to be filed ~~or has been filed~~. Disobedience of the order
10 by a vexatious litigant may be punished as a contempt of court.
11 (b) The presiding justice or presiding judge shall permit the
12 filing ~~or maintenance~~ of that litigation only if it appears that the
13 litigation has merit and has not been filed for the purposes of
14 harassment or delay. The presiding justice or presiding judge may
15 condition the filing of the litigation upon the furnishing of security
16 for the benefit of the defendants as provided in Section 391.3.
17 (c) The clerk may not file any litigation presented by a vexatious
18 litigant subject to a prefiling order unless the vexatious litigant
19 first obtains an order from the presiding justice or presiding judge
20 permitting the filing. If the clerk mistakenly files the litigation
21 without the order, any party may file with the clerk and serve, or
22 the presiding justice or presiding judge may direct the clerk to file
23 and serve, on the plaintiff and other parties a notice stating that
24 the plaintiff is a vexatious litigant subject to a prefiling order as
25 set forth in subdivision (a). The filing of the notice shall

1 automatically stay the litigation. The litigation shall be
2 automatically dismissed unless the plaintiff within 10 days of the
3 filing of that notice obtains an order from the presiding justice or
4 presiding judge permitting the filing of the litigation as set forth
5 in subdivision (b). If the presiding justice or presiding judge issues
6 an order permitting the filing, the stay of the litigation shall remain
7 in effect, and the defendants need not plead, until 10 days after the
8 defendants are served with a copy of the order.

9 (d) For purposes of this section, “litigation” includes any
10 petition, application, or motion other than a discovery motion, in
11 a proceeding under the Family Code or Probate Code, for any
12 order.

13 (e) The presiding justice or presiding judge of a court may
14 designate a justice or judge of the same court to act on his or her
15 behalf in exercising the authority and responsibilities provided
16 under subdivisions (a) to (c), inclusive.

17 (f) The clerk of the court shall provide the Judicial Council a
18 copy of any prefiling orders issued pursuant to subdivision (a).
19 The Judicial Council shall maintain a record of vexatious litigants
20 subject to those prefiling orders and shall annually disseminate a
21 list of those persons to the clerks of the courts of this state.

22 ~~SECTION 1. It is the intent of the Legislature to enact~~
23 ~~legislation that would revise the penalties for certain misdemeanor~~
24 ~~offenses.~~